

Final Business and Regulatory Impact Assessment

Title of Proposal

Pre-import notification requirements for ash, oak, plane, pine and sweet chestnut trees.

Purpose and intended effect

- **Background**

The recent discovery of *Chalara fraxinea* has highlighted the increasing threat to tree health from pests and pathogens which are already present in continental Europe. The Scottish Government has been working with Defra to review the top risks to tree health with a view to taking rapid action to address these. As part of this work, a Scottish Tree Health Advisory Group has been established, and initial outputs from its work were presented at a stakeholder Tree Health Summit on 6 March 2013.

Plane tree wilt and sweet chestnut blight are serious diseases which have affected trees in continental Europe. Both of these diseases are now found in France, but, with the exception of one outbreak (which is thought to have been controlled) of the latter disease in England, we believe Great Britain is thus far free of them. Oak processionary moth has become established in some locations around London and at a site in west Berkshire, but is not widespread and EU protected zone status is being sought for the rest of the UK. That means we need to prevent further outbreaks as far as we can. The greatest risk of these diseases coming to Britain is through the import of infected plants.

These pests and diseases are regulated under the EU plant health regime. Imports of plane trees and chestnut trees can only come into the UK from designated disease-free areas, or from disease-free sites within infected areas. Oak trees can only be imported from pest-free areas. However, we currently have no means of knowing the precise details of consignments arriving in Britain and so there remains a risk that infected trees could be imported into the UK.

While *Dothistroma* needle blight is affecting pine throughout Scotland, the causal agent is *Dothistroma septosporum*. *Dothistroma pini* is not known to be present in Great Britain and its arrival would increase the risk of genetic exchange leading to potentially adverse consequences for pine, including in Caledonian pinewoods (which are of high nature conservation value). Furthermore, there is a risk of introducing pine processionary moth, which is not known to be present in Great Britain.

Defra Ministers made an order in the Westminster Parliament under the Plant Health Act 1967 which has introduced a statutory notification scheme for imports to England of specified genera of trees – namely *Platanus* (plane), *Quercus* (oak), *Castanea* (sweet chestnut) and *Fraxinus* (ash) - to strengthen measures already in place in relation to imports of trees. This order, introduced on 17 January 2013, requires the pre-import notification of ash, oak, plane and sweet chestnut trees entering the UK from mainland EU via English points of landing (by sea, air or rail), although the majority of these imports tend to enter the UK via English ports. Defra Ministers have also indicated that they intend to extend this scheme to include trees of the genus *Pinus* (pines).

Scottish Ministers would also like to take action to minimise this risk by introducing parallel legislation in the Scottish Parliament requiring pre-import notification of ash, oak, pine, plane and sweet chestnut trees entering the UK from mainland EU via Scottish points of landing (i.e. by sea or air).

Further detail on each genus are as follows:

(i) Plane

Plane trees are included in the EU Plant Passporting scheme and there are also EU requirements on the movement of plane wood. This is in response to the risk from plane wilt caused by *Ceratocystis platani* which has had a major impact in France's Canal du Midi, with 42,000 trees needing to be felled. It causes severe wilting and tree mortality and is also present in Italy and Switzerland. The main pathway for movement is infected plants for planting. There have been no cases in the UK, but it would be very damaging if introduced. This is because plane trees are commonly planted in urban situations in the UK, due to their reputation for tolerance to water shortage and high levels of pollution. Other unregulated organisms affecting plane are known to be present elsewhere, which could be damaging if introduced to the UK.

(ii) Oak

Oak trees are included in the EU Plant Passporting Scheme and UK measures are also in place in connection with the risk from oak processionary moth, which is present in many EU countries. There have been a number of outbreaks of this pest linked to imported plants, with the main pathway being undetected egg masses moved on dormant plants. The national measures have proved largely successful to date, with no recent introductions on imported plants. The pest is now established in some London boroughs and in west Berkshire, but EU Protected Zone status is being sought for the rest of the UK.

(iii) Sweet chestnut

Sweet chestnut trees are included in the EU Plant Passporting Scheme and there are additional requirements for wood and bark being moved into and within Protected Zones. Despite having EU Protected Zone status, there have been recent findings in the UK of chestnut blight (*Cryphonectria parasitica*) in sweet chestnut orchards, on plants imported from France. Infected trees have been destroyed, with no evidence of spread in the vicinity of affected sites, although follow up work is continuing.

(iv) Ash

Ash trees are not regulated under the EU Plant Health Directive, but UK measures are in place against *Chalara fraxinea*. These restrict imports and movements to those from Pest Free Areas. While no such Areas have currently been designated, they may be in future and statutory notification will provide a means of monitoring the movement of ash trees into the UK.

(v) Pine

Pine plants for planting are regulated under the EU Plant Health Directive. Dothistroma needle blight is affecting pine throughout Scotland, especially in the north and north east. There is also concern about its potential impact on Caledonian pinewoods, and about the potential for genetic exchange due to the presence of two mating types and at least 99 genotypes of *Dothistroma septosporum*. However, *Dothistroma pini* is not known to be present in Great Britain and its arrival would increase this risk of genetic exchange having

adverse consequences for pine, including in Caledonian pinewoods. Furthermore, there is a risk of introducing pine processionary moth, which is not known to be present in Great Britain. Statutory notification will provide a means of monitoring the import of pine trees into the UK.

While imports from third countries are already subject to statutory notification (through phytosanitary certification requirements), statutory notification for intra-EU trade will mean that anyone importing trees (including young planting material and seeds) must notify the Scottish Government in advance of their introduction to the UK through Scottish points of landing, providing certain limited information about their destination. Without such notification, there is no means of monitoring reliably the import of such plants (irrespective of whether they are Plant Passported).

- **Objectives**

The policy objectives are to:

- (a) raise awareness about the threats to these species;
- (b) provide intelligence about the level of trade;
- (c) facilitate tracing in the event of problems;
- (d) allow targeted inspections to be carried out by the Plant Health Authorities, and;
- (e) generate evidence in support of further measures, if needed.

It will not be the intention to inspect every consignment notified, but the information provided by notification will ensure that the Plant Health Authorities are able to target surveillance and focus on the highest risk plants (in terms of their source and intended destination). It will also help the Plant Health Authorities to target follow up inspections and, where necessary, laboratory testing of samples.

This proposal to put in place a statutory requirement to notify the Plant Health Authorities of imports of trees of the relevant genera will, when combined with measures south of the border, facilitate longer-term monitoring of imports and surveillance for pests and diseases, which will inform decisions about whether further action on imports is necessary.

This approach is consistent with the EU Plant Health regime.

These tree species are regulated under the EU Plant Health Regime or in GB domestic legislation, but have been associated with outbreaks of harmful organisms in the UK or elsewhere. In its interim report, published in December 2012, the Defra Expert Taskforce on Tree Health and Plant Biosecurity has recommended that biosecurity should be strengthened to reduce risks at the border and within the UK. This includes protecting against new threats before they arrive, including by pre-notification of high-risk plants (in terms of their source and intended destination). Statutory notification of high-risk imports will provide a mechanism to monitor such imports more effectively, to identify potential issues at an early stage and to follow up problems.

- **Rationale for Government intervention**

Government intervention is required because of the significant potential impact of these diseases on public goods, namely trees in the wider environment, in woodlands (including high nature conservation value woodlands), and trees in towns and cities.

The proposed requirement is based on evidence from a number of sources:

- Technical information about the spread of the pests and pathogens associated with these genera from European plant health networks and other Member States, which has shown the widespread presence of these diseases in countries in continental Europe which are known to export trees of these genera to the UK.
- Surveillance intelligence from this country which suggests that plane tree wilt, sweet chestnut blight, *Dothistroma pini* and pine processionary moth are not currently present in Great Britain; and that oak processionary moth is confined to a number of areas in the London area.
- Risk assessment undertaken under the UK Plant Health Risk Management Workstream, which conducts a monthly review of top threats to tree and plant health. Work under this programme has identified these pests and pathogens as a serious threat to trees in this country and has advised that the main risk of incursion is through the import of infected trees.
- Informal consultation with stakeholders Stakeholder views through discussion at the Scottish Tree Health Advisory Group on 8 January 2013 where this proposal was supported.

Consultation

- **Within Government**

There has been consultation between the Scottish Government, the Forestry Commission and Defra on these proposals. The proposed Scottish measures are based largely on the measures that are being introduced in England.

- **Public Consultation**

Due to the specialist nature of this regulation there has been no public consultation.

- **Business**

When the pre-import notification requirements were introduced south of the border, the Scottish Government informed businesses in Scotland that were likely to be affected; at the same time these businesses were informed that the Scottish Government was intending to introduce similar measures, and that these would include pine.

Options

1. *Do nothing*

Do nothing is not a viable option. By doing nothing, we will be in a position where trees from high risk areas could be imported and we will not be aware of where they have come from or where they are going. This would make it extremely difficult to intercept high risk consignments, and tracing forward infected trees, or tracing them back to identify their origins, will be extremely difficult. This was the experience with ash trees imported before the movement ban imposed in October 2012.

If imported and planted, infected trees could transmit pests and diseases to the wider environment, with serious consequences for tree health, and costs associated with treatment, or removal and destruction of infected trees and subsequent replanting.

2. *Voluntary notification by importers*

It is considered that relying on voluntary notification will not be sufficient. The impact of importing infected trees falls more heavily on other parties (land owners, public authorities, and the wider public) than it does on importers, and so the incentive to report voluntarily is weak.

There are existing EU legal provisions, but as these are set out in the EU Plant Health Directive rather than in a directly-applicable regulation, a domestic statutory instrument is needed to make use of them. In this particular case, the relevant EU provision is article 12 of the Directive, which requires Member States to make targeted checks if facts have come to light to suggest that specified material being imported does not comply with plant health requirements. The presence of a range of pests and diseases on the near continent, and our awareness in broad terms that trade in trees from these countries is going on provides the basis for invoking this provision.

3. Regulation to require notification.

This is more likely to be effective in securing the desired behaviour because non-compliance will attract a fine of £5,000 under existing plant health legislation.

- **Sectors and groups affected**

The level of administrative burden on importers from such an approach is small and the Scottish Government already has a notification system in place for potato imports which will be adapted for this purpose.

Importers bringing the relevant trees into the country will be required to notify the plant health authorities of what they are importing, where the trees are from, and their intended destination. They will be able to do this by entering details of their consignments onto an online system, or by making a telephone call to their local plant health inspector. This will take 5-10 minutes per notification. The industry is already familiar with the details of implementation of the scheme south of the border, where measures have been taken to address “teething problems”, and we will benefit from this prior experience.

For small importers (including micro-businesses), the total time taken is likely to be less than an hour per year.

For larger importers, it is likely to be no more than 5-8 hours per year.

We estimate that there are around 70 businesses potentially importing plants from mainland EU directly into Scotland, but this is likely to be a high estimate as not all of them trade in the tree genera covered by this requirement,. This estimate is based on the number of registered plant passporters, and horticultural nurseries and garden centre businesses which import plants for onward sale. There may be a number of other businesses that import trees for their own end use; we have no firm numbers for these because they are not currently required to register with the Plant Health Authorities, and are not covered by a single readily identifiable trade body. The total number of businesses affected is therefore an estimate, but we believe that it represents a “worst case scenario”.

- **Benefits**

1. Do nothing – no benefits.
2. Voluntary notification – unlikely to bring any benefits.
3. Regulation to require notification – strengthening of measures to prevent entry of new tree pests and diseases into Scotland

- **Costs**

1. Do nothing – zero cost to business from notification requirement. Potentially high costs to business and wider society from new tree diseases.
2. Voluntary notification – cost to business depends upon compliance, but likely to be low. Potentially high costs to business and wider society from new tree diseases.
3. Regulation to require notification - the total costs associated with this measure is likely to be less than £10000 per year (based on 500 hours at £20 per hour) for Scottish business as a whole; this is an upper estimate.

Scottish Firms Impact Test

As previously mentioned we have engaged with those businesses likely to be affected as soon as pre-import notification came into force in England. In addition to this engagement, face-to-face discussions were carried out with the Scottish Tree Health Advisory Group (STHAG). A number of the potentially affected businesses are represented on the STHAG and the Group welcome and support these measures.

- **Competition Assessment**

There are not expected to be any competition impacts. The proposal is most unlikely to limit the number or range of suppliers (either directly or indirectly). Given the low level of administrative burden imposed by the proposal, it is also most unlikely to limit the ability of suppliers to compete, or to reduce suppliers' incentives to compete vigorously.

- **Test run of business forms**

The procedures will be based on those already used for seed potatoes, adapted for these genera of trees and making use of recent experience south of the border. The system in place therefore has already been test run with business to ensure it is easy to use.

Legal Aid Impact Test

We do not consider that the proposals could result in expenditure from the legal aid fund. –Due to the sectors and groups affected by this proposal, this should not have a significant impact on the Legal Aid Fund.

Enforcement, sanctions and monitoring

Where an inspector is satisfied that a lot includes trees of these genera grown out with Scotland, and that no notification has been given as required by the order, then the inspector may serve a notice requiring the person introducing the plants to notify the Scottish Ministers within such period as is specified in the notice. The penalty for non-compliance with the order would be £5000.

Implementation and delivery plan

It will be implemented by adapting the notification procedure currently used for seed potatoes. This is expected to be completed by the time that the order comes into force.

- **Post-implementation review**

There will be an annual review of these arrangements, to respond to the most up to date evidence about new and revised threats.

Summary and recommendation

The recommended option is option 3 - Regulation to require notification. This will strengthen measures to prevent entry of new tree pests and diseases into Scotland at minimal cost.

- **Summary costs and benefits table**

Option	Cost	Benefit
1. Do nothing	Zero	Nil
2. Voluntary notification	Likely to be very low	Likely to negligible
3. Regulation to require notification -	Likely to be under £10k per year	measures to prevent entry of new tree pests and diseases into Scotland strengthened

Declaration and publication

I have read the impact assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date:

Paul Wheelhouse, Minister for Environment and Climate Change

Scottish Government Contact point:

Yvonne Hay
 Agriculture, Food and Rural Communities Directorate
 Agriculture and Rural Development Division
 Climate Change, Plants, Horticulture and Potatoes
 D Spur
 Saughton House
 Broomhall Drive
 EH11 3XD
 0300 244 9692